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April 13, 2001 - CORRECTED COPY

By Email & Overnight Courier

Mary L. Cottrell, Secretary

Department of Telecommunications and Energy

Commonwealth of Massachusetts

One South Station

Boston, MA 02110

Re: D.T.E. 98-57 (Phase I) - WorldCom Comments on Verizon's April 6, 2001
Collocation Power Tariff Revisions

Dear Secretary Cottrell:

Pursuant to Hearing Officer Chin's memoranda of April 9 and 10, 2001, WorldCom, Inc. hereby submits its comments on Verizon's April 6, 2001 tariff revisions.

As the Department already knows, Verizon's collocation power charges have come under considerable fire in recent months. The Department, the New York Public Service Commission and the FCC have all been called upon to examine the issue of Verizon's unfair and anti-competitive practices in charging for power. (1) On April 6, 2001, Verizon took a significant step to lessen - but not eliminate - the extent of its discriminatory practices in Massachusetts by revising M.D.T.E. Tariff 17 to charge CLECs on a per load amp requested basis rather than on a per load amp, per feed basis. Rather than continue on the path to a level playing field, however, Verizon instead seeks to further tip the competitive imbalance in its favor by institutionalizing an elaborate and burdensome set of "enforcement" processes to police CLEC power usage. For the reasons that follow, WorldCom urges the Department to reject the enforcement mechanisms in Verizon's tariff revisions and order Verizon to submit a tariff that more fairly balances the interests of Verizon and the CLEC community. Should the Department instead choose to implement this portion of the tariff, WorldCom suggests several modifications designed to lessen the tariff's anti-competitive effects. WorldCom also seeks clarification on its implementation with respect to existing collocation arrangements.

At the outset, it should be clear that WorldCom in no way objects to Verizon receiving just and reasonable compensation for the power it supplies to CLECs. Indeed, in concept, a mechanism that compels CLECs from using more power than they are paying for makes sense. At the same time, it makes equal sense for Verizon to reimburse or credit CLECs using less power than they are paying for, but Verizon's tariff fails to do so. (2) Thus, while Verizon can subject a CLEC draining more power than the amount "requested" on its collocation application to the tariff's draconian

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penalties, it will take "no further action" if it discovers a CLEC paying for more power than it is actually draining.

This can make for rather absurd, and patently unfair, results. Consider, for instance, the following hypothetical: a CLEC has a physical collocation arrangement in a Verizon central office. There is a collocation application on record with Verizon in which the CLEC has requested 100 load amps and fusing capacity, per Verizon's tariff, at 2.5 times the load amps requested, or 250 amps; the collocation cage is provisioned with a set of A and B feeds, each feed being fused at 125 amps. Verizon performs a random inspection, finding that the CLEC is draining 115 amps. Even assuming that the overdraw of amps had been going on for an entire year, the CLEC would have drawn 180 amps more than what it had paid for (15 amps x 12 months = 180 amps). For that offense, the CLEC would have to pay Verizon for 810 amps over and above its actual usage over the next six billing periods because it went over the 110% limit described in Verizon's proposed tariff (Part E, Section 2.3.5.E.5.) ("full fused capacity" of 250 amps x 6 billing periods = a charge for 1500 amps; actual usage of 115 amps x 6 billing periods = 690 amps; 1500 - 690 = 810 amps). Of course, if the CLEC's power overdraw was for anything less than a year, the disparity between the offense and the punishment would be even greater.

Modifying the above hypothetical to examine two collocation cages reveals the potential for even greater injustice. Consider a single CLEC having physical collocation arrangements in two Verizon central offices. For each arrangement, the CLEC has an application on record with Verizon with the same specifications as above (100 load amps requested, 250 amps fused). Verizon performs random inspections on both arrangements, finding that the CLEC is draining 115 amps in one and 65 amps in the other. The CLEC is paying for 200 amps in total. The CLEC is using only 180 of the 200 amps it is paying for. Yet because in one of the two arrangements it went over the 110% limit described in of Verizon's proposed tariff (Part E, Section 2.3.5.E.5.), the CLEC must pay Verizon for 350 amps for each of the next six bill periods (the "full fused capacity" of 250 amps for the arrangement that went over the 110% limit and 100 amps for the arrangement draining 65 amps).

In response to the first hypothetical, Verizon might argue that it presents an extreme case, and that a CLEC overdraw of greater than 15% would narrow the huge disparity between the actual usage in excess of the amps requested and the damages Verizon seeks to recover. But that does not justify the penalty scheme contemplated by the tariff as written; it instead suggests that Verizon's enforcement mechanism for overutilization of power should be on a sliding scale.

In response to the second hypothetical, Verizon might argue that the underutilization of power in one of the two collocation arrangements is irrelevant to whether the other is in violation of "the rules," and, in any event, the CLEC should not have requested more power than it needs in the underutilized cage. WorldCom submits that CLEC underutilization of power in collocation arrangements is relevant to the Department's consideration of Verizon's proposed tariff revisions. Indeed, "the rules" that permit Verizon to impose stiff penalties for overutilization of power should not even exist until there is some countering mechanism in place with respect to underutilization. This is because in many and perhaps most cases, Verizon will get paid for providing much more power than it actually supplies. It takes approximately four-and-a-half months (76 business days,

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according to Verizon's CLEC handbook), to provision a power augment to a CLEC collocation cage. Because it takes so long to obtain additional power from Verizon, WorldCom (and likely other CLECs as well) often requests power in excess of its immediate, short-term needs so that it can have the flexibility to install and provide power to additional equipment to meet the needs of its customers, who might otherwise do business with a different vendor if forced to wait for months before their requirements can be met. Although it may be months before WorldCom actually begins utilizing that power, it nevertheless must pay Verizon for it. As long as Verizon's augment procedures require such a long lead time, it will keep in place a system that essentially requires CLECs to choose between (a) paying for power they may not use for months or more, or (b) ordering only the power they need immediately, and having little flexibility to meet the changing demands of their customers. Given that this institutionalized overcharging by Verizon will unquestionably dwarf the occasional errant overutilization of power by CLECs, it should be considered by the Department, and Verizon's proposed enforcement mechanism should be rejected.

Should the Department choose to permit Verizon to implement its tariff, WorldCom respectfully suggests that it be modified as follows. First, as suggested above, the penalty for overutilization must be on a sliding scale, and must not be nearly as severe as Verizon has proposed. Second, the annual and non-scheduled "attestations" Verizon requires of CLECs are administratively burdensome, and ultimately pointless. According to the tariff, CLECs will inform Verizon of the "load amps requested" when they submit collocation applications. If a CLEC augments or reduces the amount of power originally requested, Verizon's records will presumably reflect that change. If an inspection uncovers a violation, a (reasonable) enforcement mechanism can be invoked whether there is an attestation on file or not. The provisions for attestations should be stricken.

Finally, WorldCom seeks clarification on how the "load amps requested" methodology of billing will be applied to existing collocation arrangements. Presumably, since Verizon "will permit the CLEC to order a fuse size at up to 2.5 times the load amps ordered" (Part E, Section 2.2.1.B.1.), Verizon will assign a default "per load amps requested" amount based on the installed fusing capacity at existing collocation arrangements. Whatever the procedure, it should be made explicit so that CLECs are aware of it and can comment on it as necessary.

Very truly yours,

Christopher J. McDonald

cc: Service List (by email & U.S. Mail)

1. See, e.g., Complaint and Petition for Declaratory Judgment of Covad Communications Company and AT&T Communications of New York, Inc. Regarding Unjust and Unreasonable Collocation Power Charges in New York Telephone Company P.S.C. Tariff No. 914 (filed with the New York PSC on November 16, 2000); Petition of AT&T

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Communications of New England, Inc. and Covad Communications Company to Investigate Certain Provisions of January 12, 2001 Tariff Filing and Suspend and Investigate Certain Other Provisions (filed with the Department on February 1, 2001); ex parte letter on behalf of Conversent Communications in CC Dkt. No. 98-147 (filed with the FCC on March 6, 2001); ex parte letter of ALTS in CC Dkt. No. 98-147 (filed with the FCC on March 27, 2001).

2. What makes the greatest sense, of course, is a system in which CLECs pay for only the power they actually use. Thus, Verizon's January 12 tariff revision - migrating from charging for power based on fused amps to charging for power based on load amps requested - should be viewed not as the end of the matter, but as an interim step on the road to a more fair and reasonable usage-based rate structure.